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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TUANJA EDWARD ANDERSON,
Plaintiff,
v.
M. VOONG, et al.,
Defendants.

No. 2: 16-cv-2948 KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff consented to the jurisdiction of the undersigned on January 6, 2017. (ECF No. 4.) On January 23, 2017, the undersigned dismissed the complaint with thirty days to file an amended complaint. (ECF No. 5.) Thirty days passed and plaintiff did not file an amended complaint. Accordingly, on March 16, 2017, the undersigned dismissed this action based on plaintiff's failure to file an amended complaint. (ECF No. 8.)

On March 27, 2017, plaintiff appealed the order dismissing this action. (ECF No. 10.) On July 5, 2017, plaintiff filed a motion for reconsideration of the order dismissing his action. (ECF No. 15.) Plaintiff claimed that he did not receive the January 23, 2017 order. (Id.) On August 24, 2017, the undersigned denied plaintiff's motion for reconsideration, construed as a motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). (ECF No. 16.) The undersigned found that plaintiff's appeal divested the court of jurisdiction to consider plaintiff's


1 pending motion. (Id.)

2 On February 28, 2018, the Ninth Circuit vacated the order dismissing this action and
3 remanded this action for further proceedings. (ECF No. 17.) The Ninth Circuit found that not all
4 parties consented to proceed before the magistrate judge. See Williams v. King, 875 F.3d 500,
5 503-04 (9th Cir. 2017) (all parties, including unserved defendants, must consent in order for
6 jurisdiction to vest with the magistrate judge pursuant to 28 U.S.C. § 636(c)(1)).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Clerk of the Court is directed to re-serve plaintiff with the January 23, 2017 order
9 dismissing his complaint with leave to amend (ECF No. 5);
- 10 2. Plaintiff is granted thirty days from the date of this order to file an amended complaint;
11 failure to file an amended complaint within that time will result in a recommendation of dismissal
12 of this action.

13 Dated: March 8, 2018

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16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE

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